

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 21 2008

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

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5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON

8 CHRISTINA BALKENBUSH, an
individual

9 Plaintiff,

10 vs.

11 ORTHO BIOTECH PRODUCTS, L.P.,
12 a limited partnership,

13 Defendant.

14 NO. **CV-08-072-LRS**

15 NOTICE OF REMOVAL

16 Pursuant to 28 U.S.C. § 1441(a), defendant Ortho Biotech Products, L.P.
17 hereby removes this cause from the Superior Court, State of Washington,
18 County of Spokane to the United States District Court for the Eastern District of
19 Washington, and as grounds in support hereof state as follows:

20 1. The above referenced civil action was commenced by service of a
21 summons and complaint upon the defendant on February 7, 2008 and was filed
22 with the Superior Court, State of Washington, County of Spokane Court Clerk
23 under Cause No. 08-2-00536-9 on February 6, 2008. A copy of all process and
24 pleadings served upon defendant to date will be filed with this court in a timely
25 manner once received from the Superior Court Clerk's Office. Therefore, this
26 notice is timely filed pursuant to 28 U.S.C. § 1446(b).

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Cause No. _____

1 2. This action is removable to this Court pursuant to 28 U.S.C.
2 § 1441(a) because according to the Complaint the plaintiff is a citizen of the
3 State of Washington, and the defendant is a New Jersey limited partnership
4 having its principal place of business in the state of New Jersey. Defendants
5 believe that the amount in controversy exceeds \$75,000 based on pre-suit
6 demands by the plaintiffs.

7 3. This Notice of Removal is made without prejudice to, or waiver of,
8 defendants' position that plaintiffs, as a matter of law, have failed to state any
9 claims upon which relief could be granted.

10 4. Pursuant to 28 U.S.C. § 1446(d), a true copy of this Notice of
11 Removal will be filed with the Clerk of the Spokane County Superior Court.
12 Within ten days of the filing of this Notice, defendants will file with this Court
13 true and complete copies of all other records and proceedings in the state court
14 action, if any.

DATED this 20th day of February, 2008.

BENNETT BIGELOW & LEEDOM, P.S.

By John Smith

Michael Madden, W\$BA #8747
Attorneys for Defendant Ortho Biotech
Products, L.P.

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington that I caused a true and correct copy of this Notice of Removal to be delivered via overnight delivery to counsel as follows:

**Michael H. Church
Melody D. Farance
Jill K. Conrad
Stamper Rubens, P.S.
720 W Boone, Suite 200
Spokane, WA 99201**

DATED this 20th day of February, 2008

Cate R. Brewer

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